

July 13, 2009

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama, met in regular session at the Athens Police Department Court Room at 951 Hobbs Street East in the said City on July 13, 2009, at 5:30 p.m. The meeting was called to order by Councilman William R. Marks, President of the Council. Upon roll call the following were found to be present: Councilmembers Mignon Bowers, Harold Wales, Jimmy Gill, William R. Marks and Mildred Caudle. John Hamilton, City Clerk, was present and recorded the minutes of the meeting. Councilmember Harold Wales offered the invocation and Mayor Williams led the Pledge of Allegiance. The Chairperson stated that a quorum was present and that the meeting was open for transaction of business.

The Chairperson stated that the Minutes of the June 22, 2009 City Council Meeting had been submitted for approval. Councilwoman Caudle moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried. The Chairperson stated that the Minutes of the June 22, 2009 City Council Work Session Minutes had been submitted for approval. Councilwoman Caudle moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried. The Chairperson stated that the Minutes of the June 26, 2009 Special City Council Meeting had been submitted for approval. Councilwoman Caudle moved that the moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried.

A public hearing was held to hear comments on the proposed Historic Preservation Ordinance.

The following comments were made;

Bucky Patton, 401 S. Beaty Street, concerned about the \$500.00 fine in the ordinance.

Ralph Freehauf, 515 S. Beaty Street, concerned about completing repairs in thirty days, he thought this was to short of a time, maybe a six month time frame to complete repairs. Also, concerned about having a criminal record and a \$500.00 fine.

Nan Johnson, Historical resident, concerned about page 12, routine maintenance issues and frustrated about punitive rules.

Judy Patton, Houston Historical resident, concerned about page 14, landscaping laws, and flooring of patios, why are these issues are being marked out?

Jerry Dailey, just moved in the Historical District, he would like for occupants to know the rules before they move into the district.

Randy Perkins, 304 E. Lee Street, is outraged about \$500.00 fine.

Burt Nelson, Beaty Historical Division, wants occupants work on homes that violates rules, to be stopped by Historical Commission.

Jerry Barksdale, Beaty District, want to listen to everyone and have an ordinance that is fair to all.

Julia Hatchett Nelson, 517 S. Clinton Street, Beaty District, says she is withdrawing her property/home from the Historic District. She gave a letter to City Clerk John Hamilton.

Ned Taylor, Houston District, ask if Julia Nelson's withdraw is legal. Councilwoman Caudle and Shane Black, City Attorney said it was not legal.

Judy Rogers, Houston District, ask if businesses can comply with rules in Historical Districts.

Mark Packland, Houston District, thinks the \$500.00 fine being a criminal offense may need to be a civil offense.

Marshall Hyatt, South Clinton Street, wanted to know what a particular grant for the Historical District would be used for. Councilwoman Caudle said for restoration purposes. James Rich said Historical District signs were bought with a grant.

Phyllis Gaston, Clinton Street, says she is on her third restoration project and has never had any problem with the Historic Commission.

The public hearing was closed.

A public hearing was held to discuss comments concerning property on Wellington Drive being a public nuisance.

Ralph Diggins, wanted clarification of continuance of public hearing.

Sarah Mac Crossfield, Wellington Road, concerned about safety issues of home being broken in to.

The public hearing was closed.

Councilman Wales made a motion to continue the public hearing until the August 10, 2009 meeting. The motion was seconded by Councilman Gill and was unanimously carried.

A public hearing was held to hear comments on Pine Street being a public nuisance. No one spoke in favor of or against.

The public hearing was closed.

**Councilman Gill moved the adoption of the following resolution:**

**RESOLUTION NUMBER 2009-1110**

**A RESOLUTION DECLARING A PUBLIC NUISANCE AT PROPERTY ALONG PINE STREET AND ORDERING ITS ABATEMENT**

WHEREAS, the City of Athens is authorized by state law, including but not limited to § 11-67-60, *et seq.* of the *Code of Alabama*, to abate nuisances within the City, such as an abundance of weeds and vegetation that is injurious to the general public health, safety, and general welfare;

WHEREAS, it has been brought to the attention of this City Council that weeds and vegetation located on certain property are injurious to the general public health, safety, and general welfare;

WHEREAS, on June 8, 2009, this City Council adopted a resolution calling for a public hearing regarding this matter on July 13, 2009, at 5:30 P.M.;

WHEREAS, at said public hearing, this City Council received evidence concerning the conditions on the real property described herein; and

WHEREAS, based upon such evidence, this City Council concludes that the condition of the real property is injurious to the general public health, safety, and general welfare by being unsightly and providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, or pests; attaining heights and dryness that constitute a serious fire threat and/or hazard; bearing wingy or downy seeds, when mature, that cause the spread of weeds and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, that could inflict injury on a person going upon the property; being unsightly; and/or a growth of grass or weeds, other than ornamental plant growth, that exceeds 12 inches in height.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on July 13, 2009, at 5:30 p.m., as follows:

1. This resolution concerns certain real property located as follows: Tax Parcel # 10-03-06-4-003-022.000, along Pine Street, and further described as Lot No. 47, 48, and 49 of Block Five of the Jackson Subdivision of a part of the Northwest Quarter of the Southeast Quarter of Section 6, Township 3 South, Range 4 West, according to the map of said subdivision on file in the Probate Office of Limestone County, Alabama.

2. The weeds and vegetation on this property are hereby declared to be public nuisances subject to abatement by the City. The mature trees located on this property are expressly not included within this definition and are not declared to be nuisances.

3. It is hereby ordered that such offending conditions to be removed and abated. The Mayor is hereby authorized to cause municipal agents to enter upon said property to abate the nuisance. An account shall be kept of the cost of abating and removing the nuisance and a written account thereof shall be presented to the City Council for confirmation and further action.

ADOPTED and APPROVED this, the 13<sup>th</sup> day of July, 2009.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton

CITY CLERK, CITY OF ATHENS, ALABAMA

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
LIMESTONE COUNTY )

I, John Hamilton, City Clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the 13th day of July, 2009.

Witness my hand and seal of office this \_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
John Hamilton, City Clerk

The motion was seconded by Councilwoman Bowers and was unanimously carried.

Ann Shoulders, concerned about weeds, bees, insects and overall poor condition of three houses on Highland Street. She is also concerned about jack legs.

**Councilwoman Caudle moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve the travel/education expenses for the Utilities in the total amount of \$772.41.

John Bush	Plumbers & Gas Fitters Apprentice Career Track – 4 <sup>th</sup> Week Dothan, AL June 22 – 26, 2009	\$722.41
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The motion was seconded by Councilman Gill and was unanimously carried.

**Councilwoman Caudle moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the travel expenses in the following amount be approved for Electric Department personnel.

Nathan King	TVPPA Staking Training Nashville, TN	\$106.93
Gary Scroggins	Anga Conference Pensacola, FL	\$181.38

The motion was seconded by Councilman Gill and was unanimously carried.

**Councilwoman Caudle moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve the payment of budgeted travel/education expenses for specified Water/Wastewater employees in the total amount of \$3,092.22.

The motion was seconded by Councilman Gill and was unanimously carried.

**Councilman Wales made for introduction only the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to accept the Recreational Master Plan for the City of Athens in the amount of \$24,500.00 with services rendered by Morell Engineering. This will be charged to 16.82701, if Cemetery, Parks and Recreation Department is not over budget at the end of FY09. If Cemetery, Parks and Recreation Department is over budget, it will be taken from the city's reserves.

**Councilman Gill moved the adoption of the following resolution:**

RESOLUTION NUMBER. 2009-1111

**Street Name Change for Strain Road**

**BE IT RESOLVED**, BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, as follows:

**Whereas**, Strain Road was spilt into two roads during the construction of Interstate 65, many years ago.

**Whereas**, having two roads named Strain Road causes confusion for emergency response, parcel delivery, and residents.

**Now, therefore**, and in consideration of the public health, safety and welfare by the City Council of the City of Athens, Alabama:

The road located south of Sanderfer Road East, north of Hatfield Lake Road, west of Interstate 65, running from U.S. Highway 31 South in an eastward direction shall be known as "Strain Road *West*." The house numbers will remain as they are.

The road located south of Steeple Chase, north of Johnson Road, east of Interstate 65, running from Lindsay Lane South in a westward direction shall be known as "Strain Road *East*." The house numbers will remain as they are.

ADOPTED and APPROVED this, the 13<sup>th</sup> day of July, 2009.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton

CITY CLERK, CITY OF ATHENS, ALABAMA

The motion was seconded by Councilwoman Bowers and was unanimously carried.

**Councilwoman Bowers moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to accept the low responsible bid of ODB (Old Dominion Brush) for 1 (one) Leaf Machine for a total cost of \$30,320.00 for the Public Works Department. This machine will be funded from the Capital Expenditure Fund.

Councilmember Gill moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Bowers thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilwoman Bowers moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the Wastewater Capital Infrastructure Fund appropriation for construction of the Swan Creek to Linton Road sanitary sewer trunk line be increased by \$330,000.00.

Councilmember Gill moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Bowers thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilwoman Bowers moved the adoption of the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to accept the low bid of \$40,600.00 for ten (10) vehicle video systems and \$3,001.00 for installation of the vehicle video systems from Integrated Technology Systems (Digital Ally) for the Police Department. \$7,500.00 will need to be budgeted in FY2011 for extended warranty for the entire 3 (three) year warranty period.

Councilmember Gill moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Caudle, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Wales thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded:

YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilwoman Bowers introduced the following ordinance:**

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

**ORDINANCE NUMBER 2009-1735**

**FLOOD DAMAGE PREVENTION  
Non-Coastal/Riverine Communities**

**ARTICLE 1**

**Statutory Authorization, Findings of Fact, Purpose And Objectives**

**SECTION A                    STATUTORY AUTHORIZATION**

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 45, Sections 1-11, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **City Council of Athens, Alabama**, does ordain as follows:

**SECTION B                    FINDINGS OF FACT**

- (1) The flood hazard areas of **Athens, Alabama** are subject to periodic inundation which results loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

**SECTION C                    STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion
- (3) control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;

- (5) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

#### **SECTION D**                      **OBJECTIVES**

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
- (4) to minimize expenditure of public money for costly flood control projects;
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) to minimize prolonged business interruptions, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

### **ARTICLE 2**

#### **GENERAL PROVISIONS**

##### **SECTION A**                      **LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Athens, Alabama.

##### **SECTION B**                      **BASIS FOR AREA OF SPECIAL FLOOD HAZARD**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its **Flood Insurance Study (FIS), dated September 28, 1979**, with accompanying maps and other supporting data **and any revision thereto**, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for **Limestone County** are hereby adopted by reference. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

##### **SECTION C: ESTABLISHMENT OF DEVELOPMENT PERMIT**

**A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.**

##### **SECTION D. COMPLIANCE**

No structure or land shall hereafter be located, extended, converted or altered without **full compliance** with the terms of this ordinance and other applicable regulations.

##### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

#### **SECTION G. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the **City of Athens** or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

#### **SECTION H. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than **\$500.00** or imprisoned for not more than **30** days, or both, and in addition, shall pay all costs and expenses involved in the case: Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the **City of Athens** from taking such other lawful actions as is necessary to prevent or remedy any violation.

#### **SECTION I. SAVINGS CLAUSE**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

### **ARTICLE 3**

#### **ADMINISTRATION**

#### **SECTION A DESIGNATION OF ORDINANCE ADMINISTRATOR**

The **City of Athens Public Works Department** is hereby appointed to administer and implement the provisions of this ordinance.

#### **SECTION B PERMIT PROCEDURES**

Application for a Development Permit shall be made to the **Director of Engineering Services and Community Development (ES&CD Dept.)** on forms furnished by the community **PRIOR** to any development activities, and may include, but not be limited to the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

- (1) Application Stage -
  - (a) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
  - (b) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;

- (c) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
  - (d) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;
- (2) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the **Director, ES&CD Dept.** an as-built certification of the regulatory floor elevation or flood-proofing level **using appropriate FEMA elevation or flood-proofing certificate** immediately after the lowest floor or flood proofing is completed. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

**Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.** The **Director, ES&CD Dept.** shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

## **SECTION C**                      **DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the **Director, ES&CD Dept.** shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied; and, assure that sites are reasonably safe from flooding.
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (3) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2 Section B, then the **Director, ES&CD Dept.** shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of Article 4.
- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with Article 3 Section B(2) .
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 4, Sections B (2) and E (2).
- (6) When flood proofing is utilized for a structure, the **Director, ES&CD Dept.** shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (E)(2).
- (7) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and

Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.

- (8) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (9) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the **Director, ES&CD Dept.** shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the **Director, ES&CD Dept.** and shall be open for public inspection.

#### ARTICLE 4

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

##### SECTION A                      GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (3) New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) Elevated Buildings - All New construction and substantial improvements of existing structures that include **ANY fully enclosed area** located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.
  - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - (i) Provide a **minimum of two openings** having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
    - (iii) Openings may be equipped with screens, louvers, valves and other coverings and devices provided they permit the automatic flow of floodwater in both directions.
  - (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,

- (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

**SECTION B**                      **SPECIFIC STANDARDS**

In ALL Areas of Special Flood Hazard designated as A1-30, AE, AH, A (with estimated BFE), the following provisions are required:

- (1) New construction and substantial improvements - Where base flood elevation data are available, new construction and substantial improvement of any structure or manufactured home **shall have the lowest floor, including basement, elevated no lower than two (2) feet above the base flood elevation.** Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A(4), "Elevated Buildings."
- (2) Non-Residential Construction - New construction and substantial improvement of any non-residential structure located in A1-30, AE, or AH zones, **may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to two (2) feet above the base flood elevation,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C (6).
- (3) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:
  - (a) All manufactured homes placed and substantially improved on: (i) individual lots or parcels, (ii) in new or substantially improved manufactured home parks or subdivisions, (iii) in expansions to existing manufactured home parks or subdivisions, or (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has

incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than **two (2) feet** above the base flood elevation.

- (b) Manufactured homes placed and substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
  - (i) The lowest floor of the manufactured home is elevated no lower than **two (2) feet** above the level of the base flood elevation, or
  - (ii) Where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and is elevated to a maximum of 60 inches (five feet) above grade.
- (c) All Manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Refer: Article 4, Section A)
- (d) All recreational vehicles placed on sites must either:
  - (i) Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on it's wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or
  - (ii) The recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements of Article 4 Section B (3)(a)(c), above.

(4) **STANDARDS FOR SUBDIVISIONS**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (d) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.

**Section C**

**Floodways**

- (1) **Floodway:** Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:
  - (a) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the

base flood, without increasing the water surface elevation of that flood more than one foot at any point;

- (b) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
- (c) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of the Administrator.
- (d) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than **one foot** at any point within the community.
- (e) **ONLY** if Article 4 (C)(1)(b), (c) or (d), above are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

#### **SECTION D**

#### **BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE A-ZONES)**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the **Director, ES&CD Dept.** shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. **ONLY** if data are not available from these sources, then the following provisions (2&4) shall apply:
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) All development in Zone A must meet the requirements of Article 4, Section A and Section B (1) through (4).
- (4) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Also, in the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section B, Paragraph (3)(b)(ii) in that the structure must be elevated to a maximum of 60 inches (5 feet). Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A

(4) "Elevated Buildings".

The **Director, ES&CD Dept.** shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

#### **SECTION E**      **STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)**

Areas of Special Flood Hazard established in Article 2, Section B, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM) above the highest adjacent grade. **If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least Two (2) feet above the highest adjacent grade.** Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A(4), "Elevated Buildings".

The **Director, ES&CD Dept.** shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction and the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level or two (2) feet (if no map elevation is listed), above highest adjacent grade,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

#### **ARTICLE 5**      **VARIANCE PROCEDURES**

- (A) The **Zoning Board of Adjustment** as established by **Athens City Council** shall hear and decide requests for appeals or variance from the requirements of this ordinance.
- (B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the **Zoning Official** in the enforcement or administration of this ordinance.
- (C) Any person aggrieved by the decision of the **Zoning Board of Adjustment** may appeal such decision to the **circuit court or court of like jurisdiction** as provided in the **Code of Alabama 1975**.
- (D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.
- (E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the

development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

- (F) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (G) In reviewing such requests, the **Zoning Board of Adjustment** shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (H) **Conditions for Variances:**
  - (1) **A variance shall be issued ONLY when there is:**
    - (i) a finding of good and sufficient cause,
    - (ii) a determination that failure to grant the variance would result in exceptional hardship; and,
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (2) The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - (3) **Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.**
  - (4) The **Director, ES&CD Dept.** shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (I) Upon consideration of the factors listed above and the purposes of this ordinance, the **Zoning Board of Adjustment** may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**ARTICLE 6                      DEFINITIONS (Note: \* Indicates data must be inserted)**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Addition (to an existing building)"** means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction".

**"Appeal"** means a request for a review of the **Director, ES&CD Dept.** interpretation of any provision of this ordinance.

**"Area of shallow flooding"** means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**"Area of special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor sub grade (below ground level) on all sides.

**"Building"** means any structure built for support, shelter, or enclosure for any occupancy or storage.

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of equipment or materials.

**"Elevated building"** means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, pilings, posts, columns, piers, or shear walls.

**"Existing Construction"** Any structure for which the "start of construction" commenced before **September 24, 1979**.

**"Existing manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before **September 24, 1979**.

**"Expansion to an existing manufactured home park or subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

**"Flood" or "flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. the overflow of inland or tidal waters; or
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been designated as Zone A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and/or risk premium zones applicable to the community.

**"Flood Insurance Study"/ "Flood Elevation Study"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

**"Floodplain"** means any land area susceptible to being inundated by water from any source.

**"Floodway" (Regulatory Floodway)** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**"Functionally dependent facility"** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facility that are necessary for the loading and unloading of cargo or passengers, and shipbuilding, and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Levee** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this code.

**"Manufactured home"** means a building, transportable in one or more section, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum.

**"National Geodetic Vertical Datum (NGVD)"** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**"New construction" means** ANY structure (see definition) for which the "start of construction" commenced after **September 24, 1979** and includes any subsequent improvements to the structure.

**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after **September 24, 1979**.

**"Repetitive Loss"** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

**"Recreational vehicle"** means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy a violation"** means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Section 1316:** No new flood insurance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**"Start of construction"** means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

**"Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Substantially improved existing manufactured home parks or subdivisions"** is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**"Variance"** is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

#### **ARTICLE 7: SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

ADOPTED and APPROVED this, the 13<sup>th</sup> day of July, 2009.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Wales moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Gill, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember Bowers thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Wales and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

**Councilman Gill moved the adoption of the following resolution:**

RESOLUTION NUMBER. 2009-1112

**TO AWARD THE BID FOR Bituminous Paving within the City of Athens.**

**WHEREAS**, the City of Athens solicited bids for the annual Bituminous Plant Mix Pavements Contract, with said bids being received and opened on Tuesday, June 16th, 2009 at 2:00 p.m. at Athens Alabama City Hall, and

**WHEREAS**, the low bidder was Joe Keenum Excavating and Construction, Inc.,

**WHEREAS**, the City of Athens Public Works Department recommends that the bid should be awarded to Joe Keenum Excavating and Construction, Inc., as the lowest responsible bidder in the amount of \$328,200.00.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that:**

**Section 1.** The bid for annual Bituminous Plant Mix Pavements Contract be awarded to Joe Keenum Excavating and Construction, Inc., in the amount of \$328,200.00 and funded from the City of Athens Tax and General Fund on a project by project basis.

**Section 2.** Dan Williams, in his capacity as Mayor, is authorized to sign all bid award contracts and any pertinent documents pertaining to the award and execution of this bid project.

**Section 3.** That award of this contract is for a one year period of time with an extension of up to two one year contracts. The Contract may be terminated by either party with 30 day written notice.

**Section 4.** This resolution shall become effective immediately upon its adoption.

ADOPTED and APPROVED this, the 13<sup>th</sup> day of July, 2009.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Bowers moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Marks thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

\* \* \*

There being no further business to come before the meeting, the same was, upon motion by Councilman Gill and second by Councilwoman Caudle, duly and properly adjourned.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ John S. Hamilton  
CITY CLERK























































